

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

vs.

DSW SHOE WAREHOUSE, INC.,

Defendant.

CIVIL ACTION NO. 2:18-cv-01122

CONSENT DECREE

Plaintiff, the U.S. Equal Employment Opportunity Commission (the “Commission” or “EEOC”), commenced this action on September 26, 2018, in the United States District Court for the Southern District of Ohio (Eastern Division) against Defendant DSW Shoe Warehouse, Inc. The Commission asserted a claim arising under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 (“Title VII”), alleging that Defendant discriminated against Charging Party on the basis of race (black) by subjecting her to unequal terms and conditions of employment, disparate discipline, and termination. DSW has filed an Answer in this case, denying EEOC’s allegations of discrimination, and now enters into this Consent Decree for the purposes of avoiding cost and expense of protracted litigation.

In the interest of resolving this matter, and as a result of having engaged in comprehensive settlement negotiations, the parties have agreed that this action should be immediately resolved by entry of this Consent Decree, and its attachment, to promote and effectuate the purposes of Title VII.

The Court finds that it has jurisdiction over the subject matter of this action and the parties for the purpose of the action, entry of this Consent Decree, and all proceedings related to the Consent Decree.

The Court, having examined the terms and provisions of the Consent Decree, further finds that it is reasonable and just in accordance with the Federal Rules of Civil Procedure and Title VII. The entry of this Consent Decree will further the objectives of Title VII and will be in the best interests of the parties, those for whom the EEOC seeks relief, and the public.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

DEFINITIONS

- A. "Defendant" means DSW Shoe Warehouse, Inc.
- B. "Commission" or "EEOC" is the U.S. Equal Employment Opportunity Commission, an agency of the United States Government.
- C. "Charging Party" means Charging Party Shavonna Bundus.
- D. "Day" or "days" means calendar days.
- E. "Effective Date" means the date this Decree is docketed by the Clerk of Court after it is signed by or receives approval from the Court.
- F. "Expiration Date" means the date eighteen (18) months from the Effective Date of this Decree.
- G. "Region" means the DSW stores located in in the Midwest Great Lakes area including: (1) Michigan: Ann Arbor, Lansing, Grand Rapids, Brighton, Saginaw, Muskegon, and Flint; and (2) Ohio: North Olmsted, Warrensville Heights, Toledo (Franklin Pk), Westlake (Crocker Pk), Holland, and Strongsville.

GENERAL PROVISIONS AND COURT ENFORCEMENT POWERS

1. This Consent Decree constitutes full discharge and satisfaction of all claims that were alleged in the Complaint filed in this Title VII action by the EEOC.
2. This Consent Decree is not an admission on the part of Defendant as to liability for any of the claims asserted by the EEOC in the Complaint filed in this action.
3. EEOC and Defendant shall bear their own attorney's fees and costs incurred in connection with this action.
4. This Court shall retain jurisdiction to enforce the terms of this Consent Decree and will have all available powers to enforce this Decree, including, but not limited to, monetary sanctions and injunctive relief.

GEOGRAPHIC SCOPE AND DURATION OF DECREE

5. This Consent Decree shall apply to the Region.
6. This Consent Decree shall become effective on the date of its entry by the Court and shall remain in effect until its expiration date, which shall be eighteen (18) months after the date of its entry by the Court.

INJUNCTION

7. Defendant, its officers, directors, agents, employees, successors in interest, assigns, and all persons in active concert or participation with it or on its behalf are enjoined and restrained from discriminating on the basis of race in violation of Title VII.
8. Defendant, its officers, directors, agents, employees, successors in interest, assigns, and all persons acting in concert with it or on its behalf are hereby enjoined and restrained from any form of retaliation against any person because such person has opposed any practice made unlawful

under Title VII, filed a Charge of Discrimination under Title VII, testified or participated in any manner in any investigation, proceeding, or hearing under Title VII, or asserted any rights under this Decree.

MONETARY RELIEF

9. Within ten (10) days after the Court enters this Consent Decree, Defendant shall pay to Charging Party monetary relief in the total amount of forty thousand dollars (\$40,000.00), representing back pay. Within five (5) days of the execution of this Decree, EEOC shall provide Defendant with Charging Party's current address and a fully executed IRS Form W-4, executed by the Charging Party. Defendant shall send one check for the \$40,000.00 directly to Charging Party, by certified mail, at her current address within ten (10) business days of receipt of Charging Party's current address and fully executed Form W-4. Defendant shall send a photocopy of the check and related correspondence to Supervisory Trial Attorney Kate Northrup at EEOC's Baltimore Field Office. On or before the date required by the Internal Revenue Service for the 2019 tax year, Defendant shall issue to Charging Party an IRS W-2 form for the 2019 tax year to document the back pay.

POSTING OF NOTICE

10. Within five (5) business days following entry of this Consent Decree, Defendant shall post copies of the Notice, attached hereto as Exhibit A, in a conspicuous location in the Region covered by this Consent Decree where employee notices are posted. The Notice shall remain posted in that Region for eighteen (18) months from the date of entry of this Consent Decree. The Notice shall be typed legibly using font sizes not smaller than those used in Attachment A. If multiple pages are used for each Notice, they shall not be displayed one page behind another but must be posted so that all pages are in order and simultaneously visible (i.e., in horizontal row or vertical column

configuration). In addition, Defendant shall post notice of all applicable federal equal employment opportunity laws and all other notices required by law. In the event that any of the aforementioned notices becomes defaced, marred, or otherwise made unreadable, Defendant shall immediately post a readable copy of such notice(s). Defendant shall certify to the EEOC in writing within ten (10) business days after entry of the Consent Decree that the notices required by this Paragraph have been properly posted. Defendant shall permit a representative of the EEOC to enter its premises for purposes of verifying compliance with this Paragraph at any time during normal business hours without prior notice.

EEO POLICIES AND PROCEDURES

11. Defendant shall continue to implement its existing policy that explains, defines, and prohibits discrimination on any basis protected under Title VII (i.e., sex, race, national origin, religion, or color) and which contains related complaint procedures. Defendant shall ensure that its policy against discrimination on any basis protected by Title VII continues to meet the following minimal criteria:

- a. Explains federal prohibitions on discrimination under Title VII;
- b. States that Defendant: (i) prohibits discrimination against employees on the basis of sex, race, national origin, religion, or color; and (ii) prohibits retaliation against employees for opposing employment practices they reasonably believe are discriminatory or for participating in any investigation whether internal or external of a charge or claim of discrimination under Title VII.

12. Defendant shall distribute a copy of its policy against discrimination on the basis of sex, race, national origin, religion, or color to each subsequently hired temporary or permanent employee at the time of hire.

EEO TRAINING

13. Defendant shall provide to all supervisory, management, and human resources personnel working in or for the Region not less than one (1) hour of live or video (through the existing online learning management system) training regarding discrimination made unlawful by Title VII, with special emphasis on non-discriminatory treatment based on race, company policies prohibiting discrimination, penalties for engaging in conduct prohibited by Title VII and Defendant's policies, the content and requirements of this Decree, and other related topics.

14. The trainings above shall be provided by March 31, 2020, and within thirty (30) days of the first day of work for all new supervisors, managers, and human resources personnel working at the Region, who were hired after March 31, 2020. For all training, including for new supervisors, managers, and human resources personnel working at the Region, Defendant will keep records of the completed training and produce them to the EEOC upon request.

REPORTING AND RECORD-RETENTION REQUIREMENTS

15. For the duration of this Decree and for a period of not less than one (1) year afterward, Defendant shall retain the records described in this Decree. Further, Defendant will retain and provide to EEOC as soon as practicable upon demand any and all documents or data made or kept under the Decree.

16. Defendant shall comply with all applicable record-keeping requirements of Title VII and the Commission's regulations.

17. On an annual basis throughout the duration of this Decree, Defendant shall conduct reasonable auditing of its record-retention practices to ensure compliance with this Decree. Defendant shall cure any non-compliance found and report such non-compliance to EEOC in writing within ten (10) days.

18. For the duration of this Decree, Defendant shall report to EEOC whether any complaints of race discrimination or retaliation concerning the Region have been made during the six-month period preceding each report, and, if so, shall provide EEOC with copies and descriptions of complaints made, documents reflecting any investigation Defendant conducted concerning such complaints, and the identities and contact information for complainants. The first report is due no later than June 15, 2020, and subsequent reports are due no later than six months after that date, and then 6 months thereafter on a rolling basis.

SUBMISSION OF REPORTS AND NOTICES TO EEOC

19. All notifications and reports required under this Decree shall be made in writing and shall be verified by oath or under penalty of perjury by a corporate official of Defendant or Defendant's legal representative. They shall be sufficient if hand-delivered or sent by overnight mail or commercial carrier or First-Class U.S. mail or electronic mail to the following EEOC representative:

Kate Northrup, Supervisory Trial Attorney
Equal Employment Opportunity Commission
Baltimore Field Office
GH Fallon Federal Building
31 Hopkins Plaza, Suite 1432
Baltimore, MD 21201
kate.northrup@eeoc.gov
(410) 801-6702

DISPUTE RESOLUTION AND COMPLIANCE REVIEW

20. If a court action is initiated seeking compliance with this Decree, each party shall bear its own costs, expenses, and attorney's fees incurred in connection with such action.

21. EEOC agrees that it will attempt to obtain Defendant's voluntary compliance with the Decree before filing a motion with the Court seeking to enforce the Decree. Before filing a motion with the Court seeking enforcement, EEOC will notify Defendant of its alleged non-compliance

by sending an e-mail to Sarah C. Perez, Perez & Morris LLC, 8000 Ravine's Edge Court, Suite 300, Columbus, OH 43235 or sperez@perez-morris.com, or her successor, in order to provide Defendant with an opportunity to confer with EEOC and attempt to address Defendant's alleged non-compliance. DSW shall have thirty (30) days after the receipt of such notification to cure any such alleged deficiency, and to notify the EEOC, by written report addressed to undersigned counsel of the measures taken to cure the alleged deficiencies. If upon receipt of DSW's report, the EEOC concludes that the deficiency has not been satisfactorily cured by DSW, the EEOC may seek enforcement of this Consent Decree through the judicial process.

22. Jurisdiction to resolve any dispute arising under this Decree resides in the United States District Court for the Southern District of Ohio, Eastern Division, and any action to enforce this Decree shall be brought, if possible, before the judge who enters this Decree.

23. EEOC, its agents, and its employees shall in their discretion have the legal authority to enter any facility owned or operated by Defendant within the defined Region, with reasonable prior notice to Defendant and its counsel of three (3) business days, and conduct an on-site inspection to ensure compliance with Title VII and any of the terms of this Decree. Such inspections may, at the discretion of EEOC, include access to any and all documents for the purposes of inspection and duplication; interviews of any persons; inspection of any area within the facility; and any other investigatory technique or procedure permitted by Title VII or EEOC's regulations. EEOC also shall have the legal authority to require appearance and testimony of Defendant's personnel (at reasonable times and locations) at interviews and the production of relevant documents to ensure compliance with Title VII and any of the terms of this Decree. Neither EEOC's authority under this Paragraph nor any other provisions of this Decree shall be construed to limit or impair in any manner any other EEOC authority to conduct investigations of

Defendant that is provided by law, including, but not limited to, investigating charges of discrimination filed under Title VII of the Civil Rights Act of 1964, the Equal Pay Act ("EPA"), the Age Discrimination in Employment Act ("ADEA"), Titles I or V of the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act of 2008, and any statute over which EEOC is given jurisdiction in the future, and conducting directed investigations authorized under the EPA, the ADEA, and any future statute which authorizes directed investigations.

MISCELLANEOUS

24. The terms of this Decree shall be binding upon Defendant; all present and future parents of Defendant; all present and future subsidiaries of Defendant; all present and future owners, directors, officers, managers, employees, agents, trustees, administrators, representatives, successors, assigns of Defendant, and all persons acting in concert with it or on its behalf. Defendant, and any successor(s) of Defendant, shall provide a copy of this Decree and the Complaint to any organization or person who proposes to acquire or merge with Defendant, or any successor of Defendant, prior to the effectiveness of any such acquisition or merger. This Paragraph shall not be deemed to limit any remedies available in the event of any finding by the Court regarding a violation of this Decree.

25. This Decree constitutes the entire agreement and commitments of the parties. Any modifications to this Decree must be mutually agreed upon and memorialized in a separate writing signed by Defendant and the EEOC and approved by the Court.

26. If any provision(s) of this Decree are found to be unlawful, only such provision(s) shall be severed, and the remainder of the Decree shall remain in full force and effect.

27. When this Consent Decree requires the submission by Defendant of information, reports, certifications, notices, or other materials to the EEOC, they shall be provided to Kate Northrup,


Supervisory Trial Attorney, GH Fallon Federal Building, 31 Hopkins Plaza, Suite 1432, Baltimore, MD 21201 (kate.northrup@eeoc.gov).

28. All notices or other communications from EEOC to Defendant regarding this Decree shall be provided to DSW Shoe Warehouse, Inc., Attn: Michelle Krall, 819 DSW Drive, Columbus, Ohio 43219 with a copy to Sarah C. Perez, Perez & Morris LLC, 8000 Ravine's Edge Court, Suite 300, Columbus, OH 43235 or sperez@perez-morris.com.

IT IS AGREED:


**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

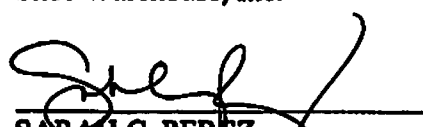

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U.S. EEOC Philadelphia District Office


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(410) 801-6702

Dated: 11/8/19

DSW SHOE WAREHOUSE, INC.


MICHELLE KRALL
Authorized corporate representative for DSW
Shoe Warehouse, Inc.


SARAH C. PEREZ
Perez & Morris LLC
8000 Ravine's Edge Court, Suite 300
Columbus, OH 43235
sperez@perez-morris.com
(614) 431-1500
(614) 431-3885 Facsimile
Attorneys for Defendant DSW Shoe
Warehouse, Inc.

Dated: 11/19/19

IT IS SO ORDERED:

DATED: 11-27-19



HONORABLE SARAH D. MORRISON
United States District Judge

EXHIBIT A

**NOTICE TO ALL EMPLOYEES POSTED PURSUANT TO CONSENT DECREE
ISSUED BY THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF OHIO (EASTERN DIVISION)**

This Notice is being posted pursuant to a federal court order in the matter of *EEOC v. DSW Shoe Warehouse, Inc.* Civil Action No. 2:18-cv-01122. In that lawsuit, EEOC alleged that DSW Shoe Warehouse, Inc. ("DSW") discriminated against an employee on the basis of race subjecting her to unequal terms and conditions of employment, disparate discipline, and termination. To resolve the case, DSW Shoe Warehouse and the EEOC have entered into a Consent Decree which provides, among other things, that:

1. DSW is prohibited by federal court order and federal law from discriminating against employees because of their race; and
2. DSW will provide mandatory training to supervisory, management, and human resources personnel at this location regarding unlawful discrimination and all employer policies regarding such matters.

Please note, the Consent Decree and the posting of this Notice are not an admission of liability on the part of DSW, nor was there a finding by the court in the above-referenced lawsuit of discrimination occurring.

EEOC enforces the federal laws against discrimination in employment on the basis of sex, race, color, religion, national origin, age, disability, or genetic information. If you believe you have been discriminated against, or retaliated against for opposing or reporting discrimination, you have the right under federal law to contact the EEOC and report that discrimination or retaliation. EEOC can be reached at (800) 669-4000, TTY for the hearing impaired at (800) 669-6820, or via e-mail at info@eoc.gov. The EEOC is a federal law enforcement agency and charges no fees to receive and investigate complaints.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for eighteen (18) months from the date below and must not be altered, defaced, or covered by any other material.

Date



For DSW